

Meeting of the Planning Committee

Monday 3rd June 2024 at 6.00pm

In the Council Chamber, The Council House, Dudley

Agenda - Public Session

(Meeting open to the public and press)

1. Chair's Announcement.

Let me first inform you that this is a Committee Meeting of the Council, members of the public are here to observe the proceedings and should not make contributions to the decision-making process.

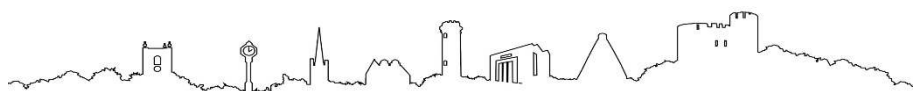
Applications are taken in numerical order with any site visit reports first, followed by applications with public speaking, then the remainder of the agenda. Officers have explained the public speaking procedures with all those present who are addressing the committee. Will speakers please make sure that they do not over-run their 3 minutes.

There will be no questioning by Members of objectors, applicants or agents, who will not be able to speak again.

All those attending this Committee should be aware that additional papers known as the "Pre-Committee Notes" are available to view on the Council's Committee Management Information System (CMIS). These contain amendments, additional representations received, etc, and should be read in conjunction with the main agenda to which they relate. They are fully taken into account before decisions are made.

2. Apologies for absence

3. To report the appointment of any substitute members serving for this meeting of the Committee.



4. To receive any declarations of interest under the Members' Code of Conduct
5. To confirm and sign the minutes of the meeting held on 25th March 2024 as a correct record (Pages 4 to 7)
6. Plans and Applications to Develop
 - (a) Planning Application No. P23/1522 – 130 - 132 Brettell Lane, Brierley Hill – Conversion of 2 no. ground floor shops into a single commercial unit for use as a restaurant (Use Class E). Alterations to elevations to include new shop front and fume extraction on rear elevation (Pages 8 to 20)
7. To consider any questions from Members to the Chair where two clear days' notice has been given to the Monitoring Officer (Council Procedure Rule 11.8).

Distribution:

Councillor D Harley (Chair)

Councillor M Webb (Vice-Chair)

Councillors A Ahmed, B Challenor, B Collins, S Keasey, K Razzaq, P Sahota and E Taylor



Chief Executive

Dated: 23rd May 2024

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Submitting Apologies for Absence

- Elected Members can submit apologies by contacting Democratic Services (see our contact details below).

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**Minutes of the Planning Committee
Monday 25th March, 2024 at 6.00pm
in the Council Chamber, The Council House,
Dudley**

Present:

Councillor D Harley (Chair)
Councillor M Webb (Vice-Chair)
Councillors H Bills, S Bothul, R Collins, P Drake, P Miller, K Razzaq and
E Taylor.

Officers:

J Mead (Principal Planning Officers), J Todd (Development Manager) – Both
Directorate of Regeneration and Enterprise, G Breakwell (Solicitor) and G Gray
(Democratic Services Officer) - Both Directorate of Finance and Legal Services.

Observers:

Councillor D Corfield – Cabinet Member for Highways and Environmental
Services
Councillor D Stanley – Ward Member for Gornal

5 members of the public.

50. **Apology for Absence**

An apology for absence from the meeting was submitted on behalf of
Councillor B Challenor.

51. **Appointment of Substitute Member**

It was reported that Councillor R Collins had been appointed to serve as substitute Member for Councillors B Challenor, for this meeting of the Committee only.

52. **Declarations of Interest**

No Member made a declaration of interest in accordance with the Members' Code of Conduct in respect of any matter to be considered at this meeting.

53. **Minutes**

Resolved

That the minutes of the meeting held on 10th January, 2024 be approved as a correct record, and signed.

54. **Plan and Application to Develop**

A report of the Director of Regeneration and Enterprise was submitted on the following plan and application to develop. Details of the plan and application were displayed by electronic means at the meeting.

The following persons were in attendance at the meeting, and spoke on the planning application as indicated: -

<u>Application No.</u>	<u>Objectors/supporters who wished to speak</u>	<u>Agent/Applicant who wished to speak</u>
P23/1570	Councillor B Challenor – Ward Councillor	Mr S Gill – Concept Design Architects
P23/1570	Ms L Watton – Local Resident	

Planning Application No. P23/1570 – Change of Use from office to a 12 Bedroom HMO with proposed Single Storey Side Extension – Ocean Swimming Pools Ltd, Holloway Street, Lower Gornal, Dudley, DY3 2EA

In considering the application, Members considered speakers comments both for and against the application.

A Local Ward Councillor speaking against the proposal reported a significant number of concerns that had been raised by local residents regarding the significant effect the House in Multiple Occupation (HMO) would have on services within the Gornal area, the impact upon street parking within the surrounding area, the large HMO accommodation was already situated within close proximity to the site, together with potential issues the HMO may cause for anti-social behaviour. The Local Ward Councillor further considered that the significant number of letters received from local residents, together with a petition against the HMO should be taken into serious consideration.

A local resident speaking against the proposal raised concerns regarding there being a large HMO established considerably near to the site, the addition of another HMO could increase anti-social behaviour, which would be concerning due to the site being within close proximity to a residential area with a significant number of children and families. Concerns were also raised regarding on street parking, road safety, increase in congestion and obstructions to the already narrow pavements. The local resident also reported that work had commenced at the site and that no consideration had been given to preserving the Gornal stone and heritage.

The applicant addressed the Committee and in doing so, advised that the initial enquiry was to demolish the premises, however, it was advised that the building was better suited to be converted to a residential use. It was considered that there was a stigma surrounding HMO accommodation and could not discriminate against potential occupants, however, it was advised that a management plan would be put in place whereby applicants would be required to provide a Guarantor and would be assessed with a view to providing informal living for young professionals. In regard to parking spaces, the applicant considered that it was likely that the occupants would be unable to afford a vehicle and therefore, would rely on public transport or cycling.

Following the speakers, Members raised questions with answers provided by both the Principal Planning Officer and Development Manager. Members could not support Officer recommendation and proposed a reason for refusal.

Resolved

That the application be refused for the reasons as set out below:

- (1) That insufficient information had been provided to demonstrate that the use of the outside amenity area by occupiers of the proposed House in Multiple Occupation could be sufficiently managed to avoid increased noise and disturbance to surrounding residential occupiers; contrary to Policy L1 and D5 of the Dudley Borough Development Strategy (2017); guidance contained within the Dudley Council Residential Design Guide SPD (2023) and guidance within the National Planning Policy Framework (2023); and
- (2) That insufficient information had been provided to demonstrate that the car park could be managed to ensure sufficient car parking spaces for the development would be provided and that there would not be an adverse impact upon highway safety, contrary to Policy TRAN2 of the Black Country Core Strategy (2011); Policy L1 of the Dudley Borough Development Strategy (2017); guidance contained within the Car Parking Standards SPD (2017) and guidance within the National Planning Policy Framework (2023)

55. **Questions Under Council Procedure Rule 11.8**

There were no questions to the Chair pursuant to Council Procedure Rule 11.8.

The meeting ended at 6.45pm.

CHAIR

PC/30

PLANNING APPLICATION NUMBER: P23/1522

Type of approval sought	Full Planning Permission
Ward	Brierley Hill Ward
Agent	Chintan Shah, C14 Designs
Case Officer	James Mason
Location:	130-132, BRETTELL LANE, BRIERLEY HILL, DY8 4BA
Proposal	CONVERSION OF 2 NO. GROUND FLOOR SHOPS INTO A SINGLE COMMERCIAL UNIT FOR USE AS A RESTAURANT (USE CLASS E). ALTERATIONS TO ELEVATIONS TO INCLUDE NEW SHOP FRONT AND FUME EXTRACTION ON REAR ELEVATION.
Recommendation Summary:	APPROVE SUBJECT TO CONDITIONS

ADDENDUM

This application and report were sent to the Chair of Planning Committee on the 11th April 2024. The Chair considered the application appropriate to be considered at Planning Committee due to this being a change of use application.

SITE AND SURROUNDINGS

1. The application site refers to two terraced buildings with residential units at first floor. The existing ground floor units are both currently occupied by an electrical and plumbing supplies store. There is an existing under-croft access for two off-street parking spaces to the side. There are existing two storey and single storey rear extension works. The development sits within a row of protected frontages.
2. The site is within Brettell Lane Local Centre and adjoins and is surrounded by a range of mixed uses.
3. To the rear of the site is the car park for 'Lidl'. Directly outside the application site is a pedestrian crossing.

4. The application is located within an Area of High Historic Townscape Value (AHHTV)

PROPOSAL

5. The proposal seeks permission for the conversion of the existing two ground floor shops (Class E) to one restaurant (Use Class E). The proposal also includes alterations to the elevations to include a new shop front and fume extraction on the rear elevation.
6. Whilst no occupier has yet been established, plans indicate that there would be service areas to the rear of the unit, with counter and servery to the front, with some customer seating shown.
7. A transport statement has been submitted in support of the application.
8. The applicant confirms proposed opening hours would be 11:00 to 23:00 Monday-Thursday and 11:00 to 00:00 Friday-Sunday.
9. The shopfront alterations would include replacing an existing door with a new full height glass panel. The proposed rear flue would have a height of 3.8m, protruding past the eaves by 0.85m and set down from the ridge by 0.95m.

HISTORY

Application No.	Proposal	Decision	Date
P20/1047	Subdivision of existing retail unit (A1) into 2 units (A1) with elevational changes to include new shop front.	Approved with conditions	14/09/2020

PUBLIC CONSULTATION

10. Direct notification was carried out to fourteen neighbouring properties and the posting of a site notice with the final dates for comments being the 3rd February 2024.
11. One joint letter of representation was received from Councillor Adam Davies and Councillor Wayne Little. The representation received is summarised below:
 - Support the principle of a new business in the ward.
 - Concern over the type of restaurant.
 - Impact of deliveries and parking.
 - Lack of details of signage.
 - Resultant odours from use.
12. In addition to the above, 5 letters of objection have been received from neighbouring addresses. These objectors raised the following concerns:
 - Lack of parking for customers and delivery
 - Noise disturbance, odour concerns and waste management
 - Oversaturation of use
 - Hours of operation
 - Anti-social behaviour

OTHER CONSULTATION

13. Highway Engineer
No comments received.
14. Head of Environmental Safety and Health
Due to the proximity to the residential units, a number of conditions are recommended to be attached to any approval to safeguard residential occupiers from odour and noise.

RELEVANT PLANNING POLICY

15. National Planning Guidance

- National Planning Policy Framework (2023)

16. Black Country Core Strategy (2011)

- CSP 1 The Growth Network
- CSP4 Place Making
- DEL1 Infrastructure Provision
- CEN2 Hierarchy of Centres
- CEN4 Regeneration of Town Centres
- CEN6 Meeting Local Needs for Shopping and Services
- TRAN2 Managing Transport Impact of New Development

17. Dudley Borough Development Strategy (2017)

- S1 Presumption in favour of Sustainable Development
- L9 District and Local Centres Protected Frontages
- L12 Shop Front Security
- D5 Noise pollution.

18. Supplementary Planning Guidance/Documents

- Shopfronts and Advertisement SPD (2017)

ASSESSMENT

19. Key issues:

- Principle/Policy
- Residential amenity
- Impact on visual amenity
- Highway Safety

Principle/Policy

20. Policies of the NPPF require local planning authorities to pursue policies, which support the viability and vitality of town centres. They also seek to secure a good standard of amenity for existing and future occupants of buildings. Policy L9 of the Dudley Borough Development Plan notes that district and local centres will be maintained and enhanced as a means of providing access to a wide range of shops, services and other activities in accessible locations.

21. The property is situated within the Protected Frontage of Amblecote local centre. The Dudley Borough Development Strategy Policy L9 requires that 50% of ground floor units within the protected frontage must be retained as retail uses. In this case, the intention is to convert the two units back into their single unit form prior to the approval in 2020 and retain the Use Class E. On the basis the proposal does not harm the vitality or viability of the centre. As such it is considered that this proposal would be acceptable and in accordance with this policy.

Residential Amenity

22. The application site is located within a row of commercial and retail properties with residential units above.

23. Whilst the application sets out hours of operation of 11:00 to 23:00 on Monday-Thursday and 11:00 to 00:00 Friday- Sunday. The Council Environmental Safety and Health Officer recommends more restricted hours of operation that does not operate past 23:00 Monday to Saturday and no later than 22:30 on Sundays and Public Holidays. These hours of operation are considered appropriate for this centre location in both ensuring adequate hours of operation and protecting the amenity of the residential occupiers.

24. Notwithstanding the above, due to the relationship with residential units the Environmental Safety and Health Officer recommends conditions to ensure that the proposed development would not negatively impact the residential occupiers in

regard to odour nor noise nuisance. These conditions are considered appropriate in protecting the amenity of residential occupiers.

25. Subject to the above-mentioned conditions, it is not considered that the proposed development would have any detrimental impact on the amenity of surrounding residential occupiers in the vicinity. The use is appropriate for a centre location such as this and the proposal accords with local and national planning policy.

Impact on visual amenity

26. The Shopfronts and Advertisement SPD highlights the important role that well-designed shopfronts play in enhancing the character of High Streets. There is a general encouragement towards retaining existing shopfronts where possible. In this case the proposed shopfront consist of minor alterations to the current shopfronts in that a high level of glazing is retained. The external alterations to the building are acceptable in scale and design. The proposed works would have no adverse impact on outlook, daylight provision or privacy. Whilst concerns are raised regarding signage, there is currently no occupier for the proposed restaurant established and so any future signage will need to apply for consent from the Local Planning Authority.

Highway Safety

27. Paragraph 115 of the National Planning Policy Framework (2023) states “Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”
28. Objections have been received regarding the lack of parking and exacerbating of existing unlawful on street parking. Whilst the existing unlawful parking is not the responsibility of the applicant, a transport statement has been submitted in support of the application. The transport statement submitted highlights that whilst the development does not provide dedicated off-street customer parking, the locality of

the development in a local centre and access to car parks within neighbouring streets that the proposed development would not result in a negative impact on highway safety.

29. Notwithstanding the above, given the siting of the development and access to public transport that the development is not likely to result in a material increase or a material change in the character of traffic movements in the vicinity of the site. The proposed development has an allocated delivery point as indicated on the plans and hours of delivery, both of which will be secured by condition. In summary, it is considered that the proposed conversion of the two units back into the original one unit and new use would not have a significant impact on the local highway network.

Other Matters

30. Concerns have been raised regarding potential anti-social behaviour and crime, however, it is considered that the use of the building is acceptable and will encourage the public to utilise facilities inside the building. It is likely that footfall will be increased in the vicinity, therefore, increasing natural surveillance within the area. Notwithstanding this, the building is within a local centre location, and the development would not be likely to have such a negative impact on anti-social behaviour and safety that would warrant a refusal.

CONCLUSION

31. It is considered the proposal accords with the Black Country Core Strategy and Dudley Borough Development Plan and would not have any detrimental impact of the vitality and viability of the centre. Furthermore, local residents would not be detrimentally affected by the proposal.

RECOMMENDATION

It is recommended that the application is Approved subject to conditions.

Conditions and/or reasons:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
REASON: To comply with Section 91(1) of the Town and Country Planning Act, 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Location plan Drg No. 531-3100, Proposed floor plans and elevations Drg No. 531-3300-B & Proposed site plan Drg No. 531-3100-A.
REASON: For the avoidance of doubt and in the interests of proper planning.
3. Prior to the commencement of development, a scheme containing full details of arrangements for internal air extraction, odour control, and discharge to atmosphere from cooking operations, including any external ducting and flues, shall be submitted to, and approved in writing by the Local Planning Authority. The works detailed in the approved scheme shall be installed in their entirety before the use hereby permitted is commenced. The equipment shall thereafter be maintained in accordance with the manufacturer's instructions and operated at all times when cooking is being carried out unless otherwise agreed beforehand in writing with the Local Planning Authority.
REASON: To protect the amenities of nearby residents and comply with Dudley Borough Development Strategy 2017 Policy D5 Noise Pollution.
4. No delivery vehicles whether loaded or unloaded shall enter or leave the site, before the hours of 0800 nor after 1800 Monday to Saturday, or at all on Sundays and Public Holidays.
REASON: To protect the amenities of nearby residents and comply with Dudley Borough Development Strategy 2017 Policy D5 Noise Pollution.
5. The premises shall not be open to the public, nor shall deliveries from the premises be made before the hours of 0900 nor after 2300 Monday to Saturday and before 1000 or after 2230 on Sundays and Public Holidays.
REASON: To protect the amenities of nearby residents and comply with Dudley Borough Development Strategy 2017 Policy D5 Noise Pollution.
6. Before any internal or external fixed plant or machinery (including plant, machinery or ducting used for air extraction, odour control, and discharge to atmosphere) associated with the development is used, a scheme to prevent disturbance to other occupiers of the building and adjacent buildings from conducted noise and vibration arising from its operation shall be submitted to and approved in writing by the Local Planning Authority. All works that form part of the approved scheme shall be completed before use of the plant or machinery and retained during use of the plant or machinery for the duration of the development.
REASON: To protect the amenities of other occupiers of the building and comply with Dudley Borough Development Strategy 2017 Policy D5 Noise Pollution.
7. The rating level of sound emitted from any fixed plant and/or machinery associated with the development (including the discharge of cooking fume from a flue) shall not exceed background sound levels by more than 5dB(A) between the hours of 0700-2300 (taken as a 15-minute LA90 at the nearest sound

sensitive premises) and shall not exceed the background sound level between 2300-0700 (taken as a 15-minute LA90 at the nearest sound sensitive premises). All measurements shall be made in accordance with the methodology of BS 4142 (2014) (Methods for rating and assessing industrial and commercial sound) and/or its subsequent amendments.

Where access to the nearest sound sensitive property is not possible, measurements shall be undertaken at an appropriate location and corrected to establish the noise levels at the nearest sound sensitive property.

Any deviations from the LA90 time interval stipulated above shall be agreed in writing with the Local Planning Authority.

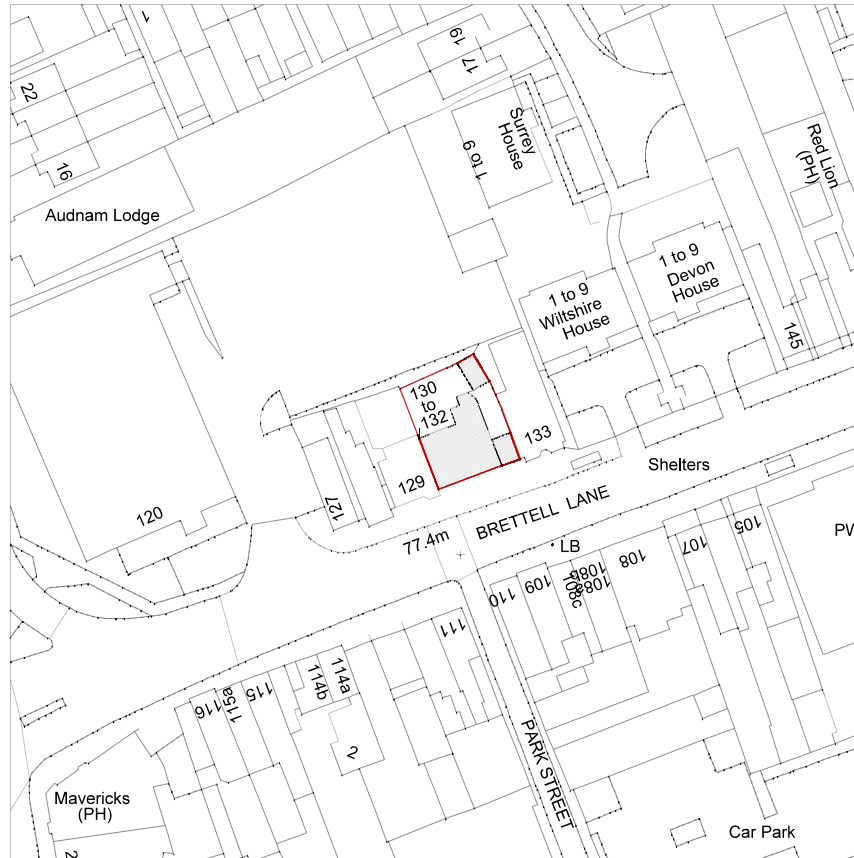
REASON: To protect the amenities of nearby residents and comply with Dudley Borough Development Strategy 2017 Policy D5 Noise Pollution.

8. All deliveries will be collected and dropped off at the side of the building as indicated on the Proposed site plan Drg No. 531-3100-A.

REASON: To protect the amenities of nearby residents and comply with Dudley Borough Development Strategy 2017 Policy D5 Noise Pollution.

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REV.		Date	Name
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 Email: cs@c14designs.com

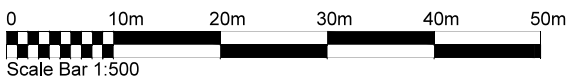
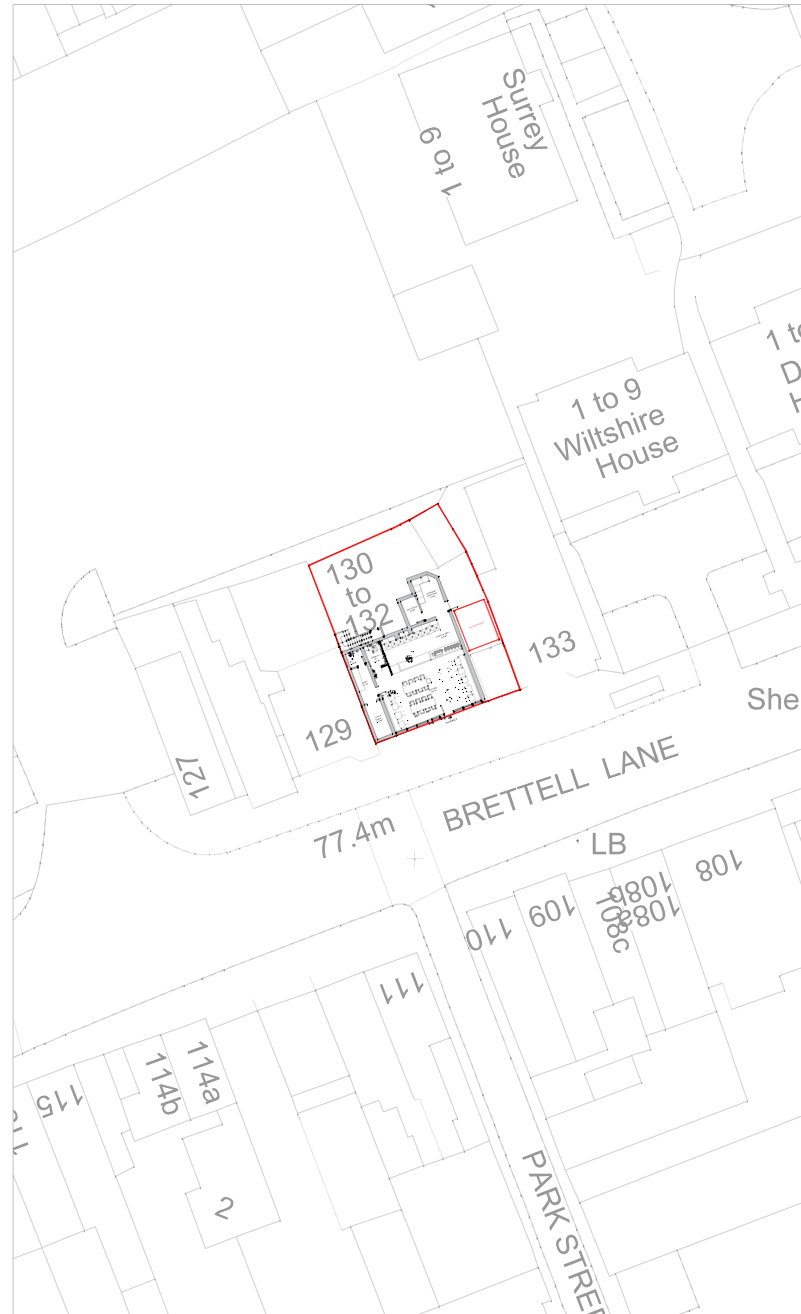


SITE LOCATION PLAN

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PLANNING

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A	INTERNAL LAYOUT AMENDED	30.02.24	H.M.
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REV. Date Name

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PROPOSED DEVELOPMENT AT
 130-132 BRETTELL LN,
 STOURBRIDGE, DY8 4BA

EXISTING + PROPOSED
 SITE PLANS

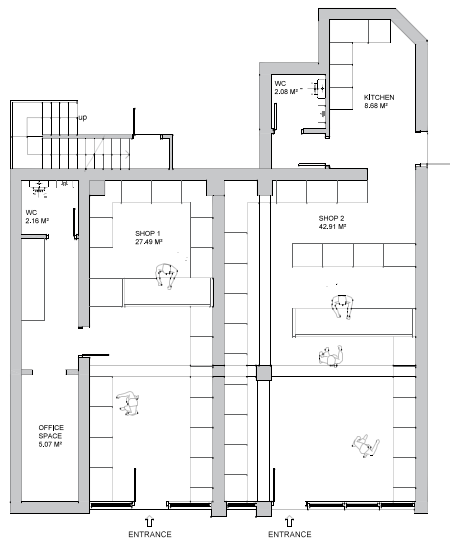
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PLANNING

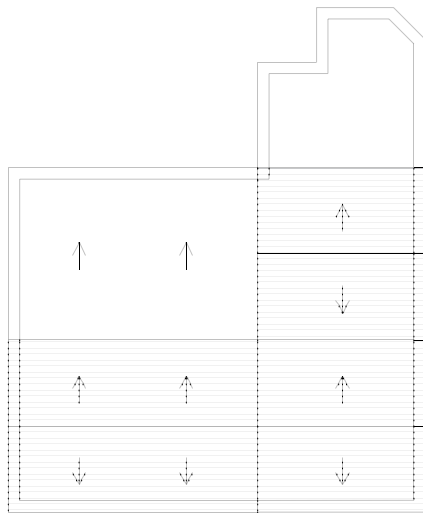
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EXISTING GF PLAN



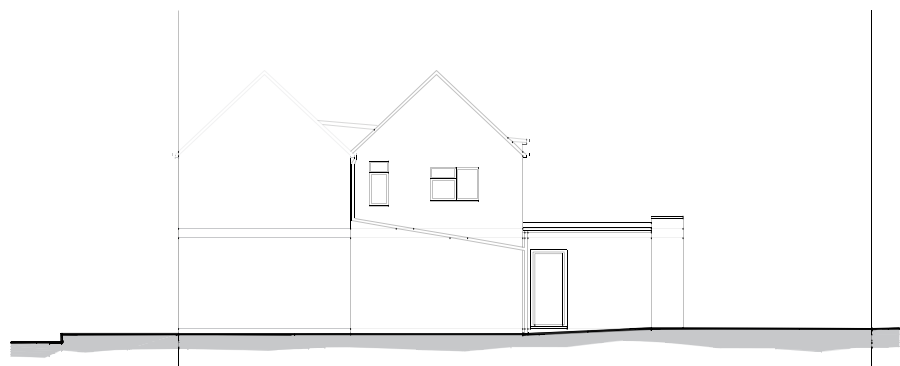
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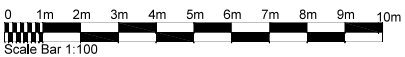
EXISTING FRONT ELEVATION



EXISTING REAR ELEVATION



EXISTING SIDE ELEVATION



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REV. _____ Date Name
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PROPOSED DEVELOPMENT AT
 130-132 BRETTELL LN,
 STOURBRIDGE, DY8 4BA

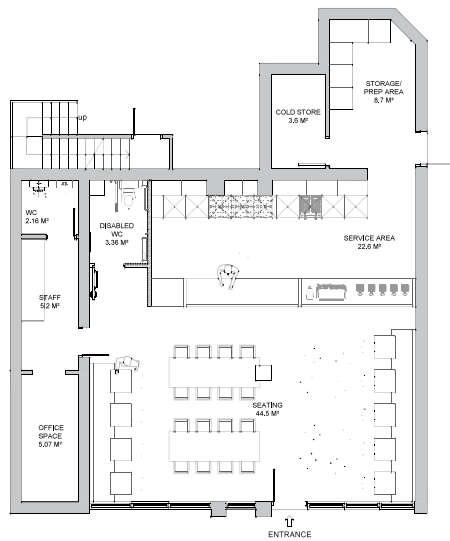
EXISTING
 PLANS + ELEVATIONS

1:100 @ A2 21/12/2023 HM

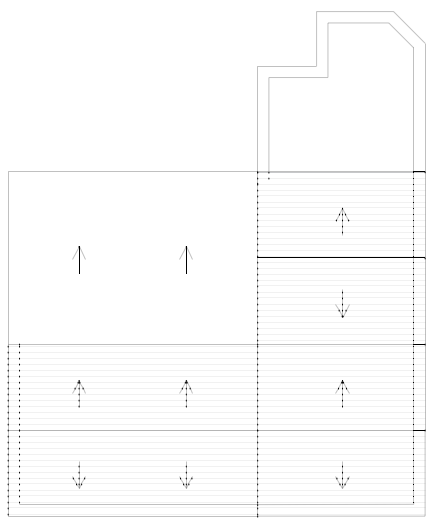
PLANNING 19

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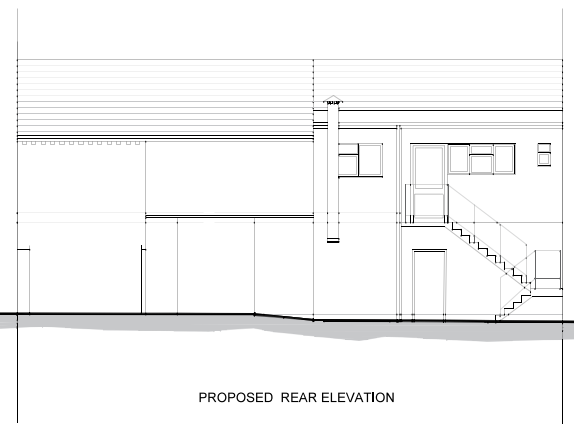
PROPOSED GF PLAN



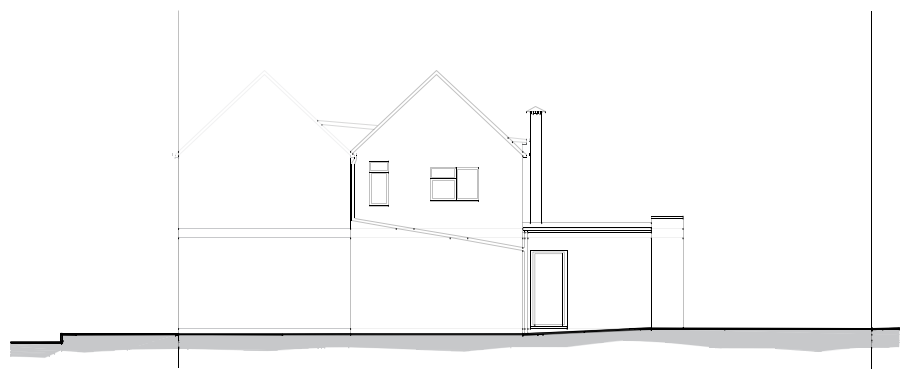
PROPOSED ROOF PLAN



PROPOSED FRONT ELEVATION



PROPOSED REAR ELEVATION



PROPOSED SIDE ELEVATION



Scale Bar 1:100

A	SCALE OF DRAWINGS AMENDED TO 1:100	PL/LSH	HM
B	INTERNAL LAYOUT AMENDED	PL/LSH	HM

REV. | Date | Name |
 95 Spencer Street, Birmingham, B18 6DA.
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 Email: cs@c14designs.com



PROPOSED DEVELOPMENT AT
 130-132 BRETTELL LN,
 STOURBRIDGE, DY8 4BA

PROPOSED
 PLANS + ELEVATIONS

1:100 @ A2 | 18/12/2023 | HM

PLANNING 20

531 | 3300 | B

Material considerations	Non Material considerations
Layout: does it reflect the character of the area, does it protect existing resident's amenity, does it provide sufficient amenity space, and does it protect businesses/future residents from noise/odour/dust complaints.	Market competition (competition with centres in terms of the requirement for a sequential approach to town centre development is material, but general competition with local shops or business is not).
Design and appearance: materials, scale, massing, style of development in terms of proportions, vertical or horizontal emphasis, heights. Appropriate to host building, immediate neighbours and wider street scene.	Loss of view (unless you own all the land between you and the view you have no right to it).
Landscaping: is this appropriate, sufficient, particularly if forming a screen or providing some form of mitigation	Loss of property value
Highway safety: can safe access and egress be made, is there sufficient car parking, can the site be serviced by fire engines, bin lorries, delivery vehicles.	Matters covered by other legislation
Impact on heritage assets/nature conservation; does the development have a positive, neutral or negative impact on heritage assets. Can the impact be mitigated through the provision of enhancements elsewhere?	Matters that can be adequately controlled by the imposition of a suitably worded condition.
Planning history: has a similar scheme been approved before/refused before? Is there appeal history.	The fact the application is for a retrospective development. Development without consent is not unlawful - it only becomes so once formal enforcement action is taken and the developer fails to comply.
	The fact the application is a repeat application (repeat non amended applications can in exceptional circumstance be refused to be registered but once registered they must be

	considered on their merits).
	The fact the developer/applicant has a history of non compliance with conditions/consents. Non compliance is dealt with through planning enforcement not through decision making.
	What may or may not happen as a result of the decision in the future.